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10/536,676

05/27/2005

Mark Ocondi

82-07

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23713 7590 01/22/2008
GREENLEE WINNER AND SULLIVAN P C
4875 PEARL EAST CIRCLE
SUITE 200
BOULDER, CO 80301

EXAMINER

WONG, ALBERT KANG

ART UNIT

PAPER NUMBER

2612

MAIL DATE

DELIVERY MODE

01/22/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/536,676

Applicant(s)

OCONDI, MARK

Examiner

Albert K. Wong

Art Unit

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 November 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) ✓
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

1. This Office action is in response to the amendment filed November 5, 2007. The rejections of the claims have been withdrawn since the claims have been cancelled. The objections to the drawings and the specification have been withdrawn since the changes are sufficient to traverse these objections. Claims 7-15 are pending. This application claims the benefit of provisional application 60/422,759, filed October 30, 2002. A review of this application shows a limited disclosure that does not support all the claims pending. Thus, applicant is not given the benefit of the filing date of the provisional application. If applicant disagrees, he is requested to point out support in the provisional application for all of the claimed limitations.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 14, this claim does not make sense. If a RTU is transmitting a message to the host computer, then the destination address should be the address of the host computer. Thus, it is not clear why or how the destination address can be something other than the address of the host computer.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 7-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aronstam (6,980,929).

Regarding claim 7, the claimed slave devices is shown as items 203 and 205; the claimed master host computer is shown as item 214; the claimed radio network is shown as item 210; and the claimed cellular modem is taught in col. 7, lines 40-50. The claimed address is taught in col. 1, lines 40-50. Aronstam does not specifically teach a slave host computer that controls the RTUs. However, this function is considered a part of the RTU since the RTU provides data gathering, computational, as well as SCADA function. It would have been obvious to use a slave computer to control such functions since computers are conventionally used for data gathering, processing and communication functions. Further, Aronstam does not specifically mention all of the claimed functions (i.e. alarm), however, these are conventional functions within a remote monitoring and control system and thus, considered obvious.

Regarding claim 8, see col. 6, lines 45-55.

Regarding claim 9, the system in Aronstam includes SCADA which encompass control functions for an oil well. It is conventional to open and close valves within a well to control flow rates. It would have been obvious to use the system in a conventional manner as suggested by the reference.

Regarding claim 10, the Examiner gives Official notice that spread spectrum and licensed frequency radio are conventional wireless communications methods. It would have been obvious to use conventional methods for their known advantages.

Regarding claim 11, the use of spread spectrum or licensed radio has been addressed above. Since the RTUs may communicate via wireless technologies they would include a radio in any conventional form. Similarly, the host computer would have a radio to allow wireless communications. It would have been obvious to use repeaters to extend the range of communications.

Regarding claim 12, this limitation has been addressed in prior claims.

Regarding claim 13, since the apparatus has been shown to be obvious, the method of using the apparatus in its intended manner would also have been obvious.

Regarding claim 14, Aronstam teaches the use RTUs to transmit messages to the host computer. Since the RTUs would use the same IP, it would contain the destination address of the host computer. If the slave radios merely serve as relays and the network is wireless, it would have been obvious that the relayed message would be transmitted to all units within range. This would include other slave computers.

Regarding claim 15, within the oil well art, it is conventional to use a logging truck with a computer to gather information at well locations. It would have been obvious to locate a computer on a mobile vehicle when a permanent installation is not required. Thus, the vehicle may be located at a well site for monitoring purposes when necessary and then relocated to a different well site.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Albert K. Wong whose telephone number is 571-272-3057. The examiner can normally be reached on M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian A. Zimmerman can be reached on 571-272-3059. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number:
10/536,676
Art Unit: 2612

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Albert K. Wong
January 19, 2008



**ALBERT K. WONG
PRIMARY EXAMINER**